

**State of New Hampshire
Office of Licensed Allied Health Professionals
Physical Therapy Governing Board
Concord, New Hampshire 03301**

In the Matter of:
Katherine Lindsay, P.T. II
No.: 2285
(Misconduct Allegations)

SETTLEMENT AGREEMENT

In order to avoid the delay and expense of further proceedings and to promote the best interests of the public and the practice of medicine, the New Hampshire Office of Licensed Allied Health Professionals Physical Therapy Governing Board ("Board") and Katherine Lindsay, P.T., ("Ms. Lindsay" or "Respondent"), a physical therapist who was licensed by the Board until her license lapsed on December 31, 2004, do hereby stipulate and agree to resolve certain allegations of professional misconduct now pending before the Board according to the following terms and conditions:

1. Pursuant to RSA 328-A; RSA 328-F:5, II; RSA 328-F:23, I; RSA 541-A; New Hampshire Office of Licensed Allied Health Professionals Administrative Rule ("Ahp") 203 and 209; and New Hampshire Board of Medicine Administrative Rule ("Med") 808.01 the Board has jurisdiction to investigate and adjudicate allegations of professional misconduct committed by physical therapists. Pursuant to RSA 328-F:24, VI; RSA 541-A; and Ahp 214 the Board may, at any time, dispose of such allegations by settlement and without commencing a disciplinary hearing.
2. The Board first granted Respondent a license to practice as a physical therapist (PT I) in the State of New Hampshire on October 28, 1998. On December 15, 1999, Respondent was qualified as PT II. Respondent holds license number 2285.

Respondent's license lapsed on December 31, 2004. In 2000 and 2001, Respondent practiced physical therapy at HealthSouth Rehabilitation Clinic in Keene, New Hampshire.

3. On or about September 15, 2004, the Board received a complaint from Patient A alleging that Ms. Lindsay provided negligent care to Patient A in a post-operative setting and failed to provide follow-up care appropriately as required by the standard of care by the profession.
4. In response to this, the Board conducted an investigation and obtained information from various sources pertaining to Respondent's treatment and care of Patient A.
5. Respondent stipulates that if a disciplinary hearing were to take place, Hearing Counsel would prove that Respondent engaged in professional misconduct, in violation of RSA 328-F:23, II (c) and (j) and Med 808.01, by the following facts:
 - A. On or between October 6, 2000 and February 2001, Respondent provided expertise and treatment as a physical therapist to Patient A.
 - B. Respondent established a physical therapy treatment plan specific to Patient A without a referral. This treatment plan included advice relating to exercises, the use of E-Stim and ultrasound all specifically designed to assist Patient A's post-operative recovery.
 - C. Respondent failed to maintain records of any evaluation, treatment or physical therapy plan for Patient A.
6. The Board finds that Respondent committed the acts as described above and concludes that, by engaging in such conduct, Respondent violated RSA 328-A:3, III;

RSA 328:23 (c) and (j); Med 808.01; and American Physical Therapy Association Code of Ethics, Principals 3.1 and 4.1 (E).

7. Respondent acknowledges that this conduct constitutes grounds for the Board to impose disciplinary sanctions against Respondent's license to practice as a physical therapist in the State of New Hampshire.
8. Respondent consents to the Board imposing the following discipline, pursuant to RSA 328-F:23, II:
 - A. Respondent is REPRIMANDED.
 - B. Respondent is required to meaningfully participate in a program of ten (10) hours of continuing education in the areas of maintaining professional relationships and ethics as set forth by the American Physical Therapy Association. These hours shall be in addition to the hours required by the Board for renewal of licensure and shall be completed within one (1) year from the effective date of this *Settlement Agreement*. Respondent shall obtain prior approval from the Board of any course she enters to comply with this condition and she shall, within fifteen (15) days of completing these hours, notify the Board and provide written proof of completion.
 - C. Respondent is assessed an ADMINISTRATIVE FINE in the amount of Five Hundred Dollars (\$500.00). Respondent shall pay this fine in full within thirty (30) days of the effective date of this agreement. Payment shall be made in the form of a money order or bank check made payable to "Treasurer, State of

New Hampshire” and delivered to the Board’s office at 2 Industrial Park Drive, Suite 8, Concord, New Hampshire.

- D. Within fifteen (15) days of the effective date of this agreement, as defined further below, Respondent shall furnish a copy of the *Settlement Agreement* to any current employer for whom Respondent performs services as a physical therapist or work which requires licensure or certification as a physical therapist or directly or indirectly involves patient care, and to any agency or authority which licenses, certifies or credentials physical therapist, with which Respondent is presently affiliated.
 - E. For a continuing period of six (6) months from the effective date of this agreement, Respondent shall furnish a copy of this *Settlement Agreement* to any employer to which Respondent may apply for work as a physical therapist or for work in any capacity which requires licensure or certification as a physical therapist or directly or indirectly involves patient care, and to any agency or authority that licenses, certifies or credentials physical therapists, to which Respondent may apply for any such professional privileges or recognition.
- 9. Respondent’s breach of any terms or conditions of this *Settlement Agreement* shall constitute unprofessional conduct pursuant to RSA 328-F:23, II (c) and (j), and a separate and sufficient basis for further disciplinary action by the Board.
 - 10. Except as provided herein, this *Settlement Agreement* shall bar the commencement of further disciplinary action by the Board based upon the misconduct described above.

However, the Board may consider this misconduct as evidence of a pattern of conduct in the event that similar misconduct is proven against Respondent in the future. Additionally, the Board may consider the fact that discipline was imposed by this Order as a factor in determining appropriate discipline should any further misconduct be proven against Respondent in the future.

11. This *Settlement Agreement* shall become a permanent part of Respondent's file, which is maintained by the Board as a public document.
12. Respondent voluntarily enters into and signs this *Settlement Agreement* and states that no promises or representations have been made to her other than those terms and conditions expressly stated herein.
13. The Board agrees that in return for Respondent executing this *Settlement Agreement*, the Board will not proceed with the formal adjudicatory process based upon the facts described herein.
14. Respondent understands that her action in entering into this *Settlement Agreement* is a final act and not subject to reconsideration or judicial review or appeal.
15. Respondent has had the opportunity to seek and obtain the advice of an attorney of her choosing in connection with her decision to enter into this agreement.
16. Respondent understands that the Board must review and accept the terms of this *Settlement Agreement*. If the Board rejects any portion, the entire *Settlement Agreement* shall be null and void. Respondent specifically waives any claims that any disclosures made to the Board during its review of this *Settlement Agreement* have

prejudiced her right to a fair and impartial hearing in the future if this *Settlement Agreement* is not accepted by the Board.

17. Respondent is not under the influence of any drugs or alcohol at the time she signs this *Settlement Agreement*.
18. Respondent certifies that she has read this document titled *Settlement Agreement*. Respondent understands that she has the right to a formal adjudicatory hearing concerning this matter and that at said hearing she would possess the rights to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on her own behalf, to contest the allegations, to present oral argument, and to appeal to the courts. Further, Respondent fully understands the nature, qualities and dimensions of these rights. Respondent understands that by signing this *Settlement Agreement*, she waives these rights as they pertain to the misconduct described herein.
19. This *Settlement Agreement* shall take effect as an Order of the Board on the date it is signed by an authorized representative of the Board.

FOR RESPONDENT

Date: 7/20/05


Katherine Lindsay, P.T.
Respondent

Date: 7/20/05


Elaine Michaud, Esq.
Counsel for Respondent

FOR THE BOARD/*

This proceeding is hereby terminated in accordance with the binding terms and conditions set forth above.

Date: 9-6-05

Wendy Furricy PTA
(Signature)

WENDY FARRICY PTA
(Print or Type Name)
Authorized Representative of the
New Hampshire Physical Therapy
Governing Board

/* Recused Board members:
Maggie Donohue, P.T.